

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

WAYNE O. BROWN, and other similarly  
situated individuals

Plaintiff,

v.

Case No.: 2:19-cv-546-FtM-38MRM

LEE MEMORIAL HEALTH SYSTEM  
FOUNDATION, INC.,

Defendant.

\_\_\_\_\_ /

**ORDER**<sup>1</sup>

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation (the "R&R"). ([Doc. 16](#)). Judge McCoy recommends granting the Joint Motion for Entry of Order Approving Settlement and Dismissing Case with Prejudice ([Doc. 15](#)), subject to the Court severing and striking paragraph 5 of the Settlement Agreement and Release ([Doc. 15-1 at 3-4](#)) containing a future employment provision. After severing and striking that paragraph, the R&R recommends approving the parties' Settlement Agreement and Release ([Doc. 15-1](#)) as a fair and reasonable resolution of a bona fide FLSA dispute. Plaintiff does not object ([Doc. 17](#)), and Defendant did not timely object. So the matter is ripe for review.

A district judge "may accept, reject or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#); *see also*

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<sup>1</sup> Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

*Williams v. Wainwright*, 681 F.2d 732, 732 (11th Cir. 1982). The district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which an objection is made.” 28 U.S.C. § 636(b)(1); see also *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). The district judge reviews legal conclusions de novo, even in the absence of an objection. *Cooper-Houston v. S. Ry.*, 37 F.3d 603, 604 (11th Cir. 1994).

After a careful and independent examination of the file, and after considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the R&R in full. In doing so, the Court accepts and adopts Judge McCoy’s recommendation to sever and strike paragraph 5 from the Settlement Agreement and Release. For that reason, there is no need to address the R&R’s alternative recommendation.


Accordingly, it is now

**ORDERED:**

1. The Report and Recommendation ([Doc. 16](#)) is **ACCEPTED and ADOPTED** and the findings incorporated herein.
  - a. The Joint Motion for Entry of Order Approving Settlement and Dismissing Case with Prejudice ([Doc. 15](#)) is **GRANTED**.
  - b. Paragraph 5 ([Doc. 15-1 at 3-4](#)) is severed and struck from the Agreement.
  - c. The remaining portions of the Settlement Agreement and Release ([Doc. 15-1](#)) are **APPROVED** as a fair and reasonable resolution of a bona fide FLSA dispute.
2. This case is **DISMISSED with prejudice**.

3. The Clerk is **DIRECTED** to enter judgment, terminate any pending motions and deadlines, and close the file.

**DONE** and **ORDERED** in Fort Myers, Florida this 17th day of December, 2019.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record